

—and—

*Attorneys for Amicus Curiae
Brady Center to Prevent Gun Violence*

| | | |
|-----------------------------|---|---------------------------------------|
| |) | Case No. 3:17-cv-06557-JSC |
| CENTER FOR INVESTIGATIVE |) | |
| REPORTING, |) | |
| |) | BRADY CENTER TO PREVENT GUN |
| Plaintiff, |) | VIOLENCE’S MOTION FOR LEAVE TO |
| |) | FILE AMICUS CURIAE BRIEF |
| v. |) | |
| |) | Date: June 28, 2018 |
| UNITED STATES DEPARTMENT OF |) | Courtroom: F, 15th Floor |
| JUSTICE, |) | U.S. District Courthouse |
| |) | 450 Golden Gate Avenue |
| Defendant. |) | San Francisco, CA |
| |) | |
| |) | Judge: Hon. Jacqueline S. Corley |

1 **A. Introduction**

2 The Brady Center to Prevent Gun Violence (the “Brady Center”) respectfully moves for
3 leave to file an amicus curiae brief in opposition to Defendant’s Motion for Summary Judgment and
4 in support of Plaintiff’s Cross-Motion for Summary Judgment. A copy of the proposed brief is
5 attached as Exhibit A to this motion. Plaintiff has consented to the filing of this motion and the
6 accompanying amicus brief. Defendant has informed the Brady Center that it takes no position on
7 this filing.

8 **B. Identity and Interest of Amicus Curiae**

9 The Brady Center is the nation’s oldest, largest, nonpartisan, non-profit organization
10 dedicated to reducing gun violence through education, research and legal advocacy. For over 25
11 years, the Brady Center’s Legal Action Project has been the nation’s leading public interest law
12 program devoted to fighting in the courts to reduce gun violence, by representing victims of gun
13 violence and defending reasonable gun laws, and has filed numerous amicus curiae briefs in cases
14 involving firearms regulations and laws affecting gun violence.

15 The Brady Center has a substantial interest in ensuring that federal law is not construed to
16 unduly restrict public access to information vital to preventing or alleviating the illegal use of guns.
17 As discussed in more detail in the attached brief, the Department of Justice, Bureau of Alcohol,
18 Tobacco, Firearms and Explosives (“ATF”) maintains a database which contains information
19 regarding the origin and ownership history of guns used in the perpetration of a crime. And,
20 although the “Tiahrt Amendment” restricts public access to certain data collected by the ATF,
21 ensuring public access to as much data as legally permissible (i.e. all data not explicitly prohibited
22 from disclosure) plays an important role in facilitating policy responses to the epidemic of gun
23 violence facing the nation. Indeed, allowing policymakers, reporters and researchers alike to
24 identify and analyze the sources of guns used to perpetrate criminal activity may prove invaluable to
25 developing and advocating for policies tailored to reducing gun crime and the violence attendant
26 thereto. Guaranteeing public access to as much information about gun crime and its causes as is
27 permitted under law is thus vital to the Brady Center’s fulfillment of its mission.

28

No party's counsel has authored the attached brief, in whole or in part, nor has any person other than amicus curiae, its members, or its counsel, contributed money that was intended to fund preparing or submitting this brief.

C. Argument

District courts have "broad discretion" to appoint amicus curiae. *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982). In that vein, "[d]istrict courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved" *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal 2005). If permitted to file, the Brady Center will fulfill "the classic role of amicus curiae by assisting in a case of general public interest[] [and] supplementing the efforts of counsel[.]" *Miller-Wohl Co. v. Comm'r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982).

The Court should exercise its discretion to permit the Brady Center to file the attached amicus brief. The Brady Center and its counsel are familiar with the scope of the arguments presented by the Parties and will not unduly repeat those arguments. The Brady Center will draw upon its knowledge of the importance of the public's access to information in developing policy solutions to address this nation's ongoing gun violence crisis and its familiarity with the legal issues surrounding disclosure of data relating to gun violence to demonstrate that federal law should not be interpreted to withhold disclosure of the data at issue in this case.

D. Conclusion

For the foregoing reasons, the Brady Center respectfully requests that the Court grant it leave to file the amicus brief attached as Exhibit A.

Respectfully submitted,

WHITE & CASE LLP

DATED: May 31, 2018

By: /s/ Heather M. Burke

Heather M. Burke
Email: hburke@whitecase.com

1 Bijal V. Vakil
2 Email: bvakil@whitecase.com
3 **WHITE & CASE**
4 3000 El Camino Real
5 2 Palo Alto Square, Suite 900
6 Palo Alto, CA, 94306
7 Telephone: (650) -

8 —and—

9 Paul B. Carberry (*pro hac vice*)
10 Martin B. Sawyer
11 Erika L. Shapiro
12 Michael-Anthony B. Jaoude
13 Lindsey B. Cherner
14 **WHITE & CASE**
15 1221 Avenue of the Americas
16 New York, NY 10020
17 Telephone: (212) 819-8200
18 Facsimile: (212) 354-8113
19
20 *Attorneys for Amicus Curiae*
21 *Brady Center to Prevent Gun Violence*
22
23
24
25
26
27
28